

Notice of Allowability

Application No.

10/750,374

Examiner

Zeev Kitov

Applicant(s)

SMITH ET AL.

Art Unit

2836

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 07/13/07.
2. ☒ The allowed claim(s) is/are 42- 46, 50 - 76.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Examiner acknowledges a submission of the amendment and arguments filed on July, 13, 2007. Claims 47 - 49, B, C and D are deleted; Claim 42 is amended. New Claims 72 – 76 are added. Amendment and arguments have overcome rejections under 102 (e) and 103(a).

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

An amended independent Claim 42 discloses a method for immobilization of a target by conducting a current through a target, which inter alia, includes providing a first pulse of the current with a first voltage, monitoring the provision of the first pulse and providing a second pulse of the current with a second voltage, while the second voltage value is based on result of monitoring the target and sufficient to ionize air gap in series with the target. The closest reference for the claim is Watkins III et al., which discloses some elements of the claim such as providing a first pulse of the current (see Fig. 7), the first pulse having a first amount voltage; It further discloses a second pulse of the current having a second amount of voltage, which is responsive to a result of monitoring (col. 6, lines 4 – 11). The microprocessor continuously performs monitoring of the target electrical parameters (col. 8, lines 30 – 44, col. 17, lines 4 – 11). Monitoring provision of the first pulse is inherent in the mode of operation of the system, since as Fig. 5C shows, first stage pulse application results in is a dramatic drop of impedance and subsequent activation of the second pulse cannot be provided unless the impedance

Art Unit: 2836

drop is assured (col. 6, lines 4 – 11). However, the reference is silent with regard to a value of the second pulse being result of monitoring and being sufficient to ionize air gap in series with the target. This issue is in a core of an invention; the value of the second pulse is set according to results of monitoring such that in a case of imperfect contact with the target the air gap in series with the target is ionized and the second pulse is delivered to the target.

Independent Claim 52 discloses, inter alia, the second pulse generation being conditioned on results of testing of the path existence conducted at the time of the first pulse. Watkins III et al. do not disclose such limitation.

As per independent Claim 56, it discloses, inter alia, the first path testing stage and the second stimulation stage being overlapping. Watkins III et al. do not disclose such limitation.

Independent Claim 72 discloses inter alia, providing a first pulse of the current having the first voltage, monitoring the provision of the first pulse, and providing a second pulse of the current having a second voltage; the second voltage is responsive to a result of monitoring and greater than the first voltage. Watkins III et al. do not disclose such limitation.

Allowability resides, at least in part, in the above-described limitations, which has not been disclosed in the Prior Art in a search.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

Art Unit: 2836

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zeev Kitov whose telephone number is (571) 272-2052. The examiner can normally be reached on 8:30 – 5:00. If attempts to reach examiner by telephone are unsuccessful, the examiner's supervisor, Michael Sherry can be reached on (571) 272 – 2800, Ext. 36. The fax phone number for organization where this application or proceedings is assigned is (571) 273-8300 for all communications.

Z.K.
7/20/2007

A handwritten signature in black ink, appearing to read 'MS 7/20/07', is written over the printed name and title of Michael Sherry.

MICHAEL SHERRY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800